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**SCULLY, SCOTT, MURPHY  
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# Fax

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**To:** Examiner Peter J. Vrettakos  
Art Unit: 3739

**From:** Thomas Spinelli, Esq.  
Registration No.: 39,533

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**Fax:** 571-273-8300

**Pages:** 7

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**Phone:** 571-272-4775

**Date:** May 24, 2007

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**Re:** USSN: 10/718,189  
Our Docket: 17272

**CC:**

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## RESPONSE TO RESTRICTION REQUIREMENT

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The following is being filed with the U.S. Patent and Trademark Office via facsimile on May 24, 2007:

1. Response to Restriction Requirement W/Transmittal In Duplicate
2. Certificate of Transmission Under 37 CFR 1.8

Applicant: Tsutomu Okada  
Serial No.: 10/718,189  
For: DIATHERMIC CUTTER  
Filed: November 20, 2003  
Docket: 17272  
Dated: May 24, 2007  
TS:cm

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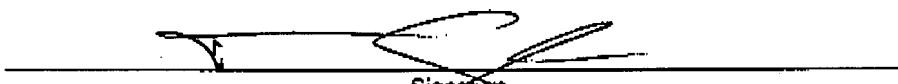
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No. 0702 P. 3

**TRANSMITTAL LETTER**  
**(General - Patent Pending)**

Docket No.  
17272

In Re Application Of: Tsutomu Okada

Application No.	Filing Date	Examiner	Customer No.	Group Art Unit	Confirmation No.
10/718,189	November 20, 2003	Peter J. Vrettakos	23389	3739	9810

Title: DIATHERMIC CUTTER

**COMMISSIONER FOR PATENTS:**

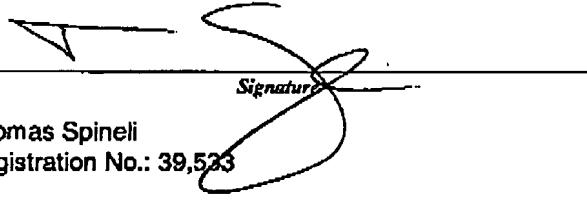
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**RESPONSE TO RESTRICTION REQUIREMENT**

in the above identified application.

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Registration No.: 39,523

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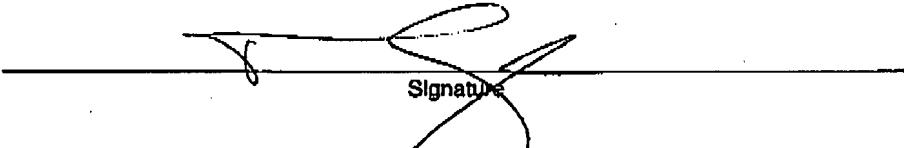
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Thomas Spinelli  
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39,533  
Registration Number, If applicable

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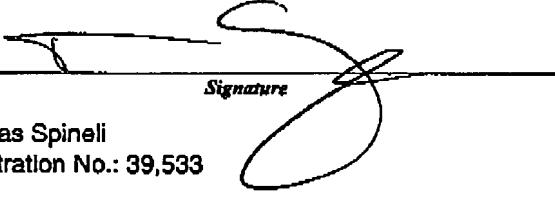
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No. 0702 P. 5

TRANSMITTAL LETTER (General - Patent Pending)				Docket No. 17272	
In Re Application Of: Tsutomu Okada					
Application No. 10/718,189	Filing Date November 20, 2003	Examiner Peter J. Vrettakos	Customer No. 23389	Group Art Unit 3739	Confirmation No. 9810
Title: DIATHERMIC CUTTER					
<u>COMMISSIONER FOR PATENTS:</u>					
Transmitted herewith is: <b>RESPONSE TO RESTRICTION REQUIREMENT</b>					
In the above identified application.					
<p><input checked="" type="checkbox"/> No additional fee is required.</p> <p><input type="checkbox"/> A check in the amount of _____ is attached.</p> <p><input checked="" type="checkbox"/> The Director is hereby authorized to charge and credit Deposit Account No. 19-1013/SSMP as described below.</p> <p><input type="checkbox"/> Charge the amount of _____</p> <p><input type="checkbox"/> Credit any overpayment.</p> <p><input checked="" type="checkbox"/> Charge any additional fee required.</p> <p><input type="checkbox"/> Payment by credit card. Form PTO-2038 is attached.</p>					
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 Signature			Dated: May 24, 2007		
Thomas Spinelli Registration No.: 39,533			<p>I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to the "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)] on _____</p> <p>(Date) _____</p> <p><i>Signature of Person Mailing Correspondence</i></p> <p><i>Typed or Printed Name of Person Mailing Correspondence</i></p>		
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

<b>Applicant:</b>	Tsutomu Okada	<b>Examiner:</b>	Peter J. Vrettakos
<b>Serial No:</b>	10/718,189	<b>Art Unit:</b>	3739
<b>Filed:</b>	November 20, 2003	<b>Docket:</b>	17272
<b>For:</b>	DIATHERMIC CUTTER	<b>Dated:</b>	May 24, 2007
<b>Conf. No.:</b>	9810		

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**RESPONSE TO RESTRICTION REQUIREMENT**

Sir:

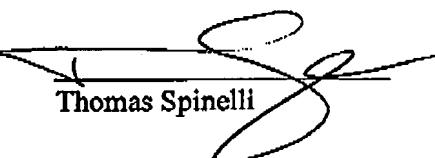
Pursuant to the restriction requirement imposed in the Official Action dated April 25, 2007, Applicant elects the claims of Group I, i.e., Claims 59-64, for continued prosecution herein.

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Dated: May 24, 2007



Thomas Spinelli

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Claims 59-71 are present in the above-captioned application and have been subjected to restriction under 35 U.S.C. § 121. Specifically, the Official Action avers that the following inventions are present in the claims:

Group I, Claims 59-64, drawn to a single electrode monopolar diathermic cutter, classified in class 606, subclass 45; and

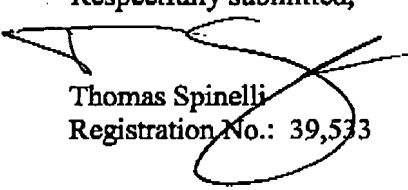
Group II, Claims 65-71, drawn to a double electrode bipolar diathermic cutter, classified in class 606, subclass 45.

It is the Examiner's position that the inventions listed as Groups I and II are distinct from each other.

In response to the Examiner's requirement for restriction, Applicant elects to prosecute the subject matter of Group I, Claims 59-64. However, Applicant reserves the right under 35 U.S.C. § 121 to file one or more divisional applications directed to the non-elected subject matter in this application.

In view of the foregoing, an examination on the merits of the elected claims, at an early date, is earnestly solicited.

Respectfully submitted,

  
Thomas Spinelli  
Registration No.: 39,533

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